



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 2002-00

27 July 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 24 October 1973 at the age of 19.

Your record reflects that you served without disciplinary incident until 29 May 1974 when you received nonjudicial punishment (NJP) for disobedience and wrongful appropriation of an identification card. The punishment imposed was forfeitures totalling \$80 and restriction and extra duty for 14 days. On 5, 18, and 28 June 1974 you received NJP for three specifications of disobedience and two specifications of failure to obey a lawful order. On 2 July 1974 you received your fifth NJP for failure to obey a lawful order and were awarded forfeitures totalling \$80 and correctional custody for seven days.

Your record further reflects that on 20 January 1975 you received NJP for theft and were awarded a \$25 forfeiture of pay and extra duty for seven days. Shortly thereafter, on 14 March 1975, you were convicted by special court-martial (SPCM) of a 111 day period of unauthorized absence (UA). You were sentenced to

confinement at hard labor for five months and a \$1,100 forfeiture of pay. On 4 December 1975 you received NJP for disobedience and failure to go to your appointed place of duty. The punishment imposed was forfeitures totalling \$75, correctional custody for seven days, and extra duty for seven days.

On 24 January 1976 you received NJP for disrespect and a three day period of UA. The punishment imposed was confinement on bread and water for three days and a \$120 forfeiture. On 21 April 1976 you received NJP for absence from your appointed place of duty, and assault, and were awarded forfeitures totalling \$60 and restriction for 30 days.

Subsequently, you were notified of pending administrative separation in accordance with the Marine Corps Expeditious Discharge Program. After consulting without legal counsel you waived your right to submit a statement in rebuttal to the discharge. The discharge authority directed your commanding officer to issue you a general discharge, and on 22 April 1976 you were so discharged.

Character of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your conduct average was 2.4. An average of 4.0 in conduct was required at the time of your separation for a fully honorable characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded. The Board also considered your contentions that you proudly served your country to the best of your ability, honorably served in Vietnam, and were told that your discharge would be automatically upgraded six months after your separation. However, the Board concluded these factors were not sufficient to warrant a change in your discharge given the seriousness of your frequent misconduct, and since your conduct average was insufficiently high to warrant an honorable discharge. Further, no discharge is upgraded merely because of the passage of time. Given all the circumstances of your case, the Board concluded your discharge was proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a

presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director